



Decision Notice Approval (amended)

Planning Act Form 5 (version 1.1 effective 22 June 2018) made under Section 282 of the Planning Act 2016 for a decision notice (approval) under s83 (change application) Planning Act 2016, and Section 334 of the Sustainable Planning Act 2009

Application number:	D/33-2014	Contact:	Aidan Murray
Notice Date:	19 December 2024	Contact Number:	1300 22 55 77

APPLICANT DETAILS

Name:	Rocky Climb Pty Ltd		
Postal address:	C/- Gideon Town Planning PO BOX 450 ROCKHAMPTON QLD 4700		
Phone no:	07 4806 6959	Mobile no:	N/A
Email:	info@gideontownplanning.com.au		

I acknowledge receipt of the above change application on 8 November 2024 and confirm the following:

DEVELOPMENT APPROVAL

Development Permit for Material Change of Use for Indoor Sport and Recreation
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PROPERTY DESCRIPTION

Street address:	100 Bolsover Street, Rockhampton City
Real property description:	Lot 1 on RP604280 and Lot 2 on RP604280

OWNER DETAILS

Name:	KTV Property Pty Ltd
Postal address:	KTV Trust, 100 Bolsover Street, ROCKHAMPTON CITY QLD 4700
Dear Rocky Climb Pty Ltd	
I advise that, on 13 December 2024 the above change application was:	
<input checked="" type="checkbox"/> approved in full with conditions* (refer to the conditions contained in Attachment 1)	
*Note: The conditions show which conditions have been imposed by the assessment manager and which conditions have been imposed by a referral agency.	

CHANGES TO CONDITIONS

The conditions which have been changed or cancelled are as follows:

1)	Condition 1.1	changed	13 December 2024
2)	Condition 1.6	changed	13 December 2024
3)	Condition 1.9	new	13 December 2024
4)	Condition 2.1	changed	13 December 2024
5)	Condition 3.1	changed	18 April 2016
6)	Condition 3.4	new	18 April 2016
7)	Condition 4.2	new	13 December 2024
8)	Condition 4.3	new	13 December 2024

9)	Condition 4.4	new	13 December 2024
10)	Condition 4.5	new	13 December 2024
11)	Condition 5.5	new	13 December 2024
12)	Condition 6.2	changed	18 April 2016
13)	Condition 6.2	deleted	13 December 2024
14)	Condition 6.4	new	13 December 2024
15)	Condition 6.5	new	13 December 2024
16)	Condition 7.1	changed	13 December 2024
17)	Condition 7.4	new	13 December 2024
18)	Condition 10.2	deleted	18 April 2016
19)	Condition 10.4	new	18 April 2016
20)	Condition 10.5	new	18 April 2016
21)	Condition 11.1	new	13 December 2024
22)	Condition 11.2	new	13 December 2024
23)	Condition 11.3	new	13 December 2024
24)	Condition 11.4	new	13 December 2024
25)	Advisory Note 6	new	13 December 2024
26)	Advisory Note 7	new	13 December 2024
27)	Advisory Note 8	new	13 December 2024

1. DETAILS OF THE APPROVAL

	Development Permit	Preliminary Approval
Development assessable under the planning scheme, superseded planning scheme, a temporary local planning instrument, a master plan or a preliminary approval which includes a variation approval - Material Change of use	<input checked="" type="checkbox"/>	<input type="checkbox"/>

2. CONDITIONS

This approval is subject to the conditions in Attachment 1.

3. FURTHER DEVELOPMENT PERMITS REQUIRED

Please be advised that the following development permits are required to be obtained before the development can be carried out:

Type of development permit required	Subject of the required development permit
Operational Works	<i>Road Works</i>
Building Works	
Plumbing and Drainage Works	

4. REFERRAL AGENCIES

NIL

5. THE APPROVED PLANS

The approved development must be completed and maintained generally in accordance with the approved drawings and documents:

<u>Plan / Document Name</u>	<u>Prepared by</u>	<u>Date</u>	<u>Reference No.</u>	<u>Version / Issue</u>
Existing Plan [Stage 1]	Design and Architecture	24 January 2014	FL-014 SK-01	Rev 2
Proposed Plan [Stage 1]	Design and Architecture	26 February 2014	FL-014 SK-02	Rev 3
Overall Plan Proposed – Site [Stage 2]	Studio Hiller	29 October 2024	837 / 101	P2
Overall Plan Proposed – Ground [Stage 2]	Studio Hiller	29 October 2024	837 / 102	P2
Overall Plan Proposed – Mezzanine [Stage 2]	Studio Hiller	29 October 2024	837 / 103	P2
Elevations Building External [Stage 2]	Studio Hiller	29 October 2024	837 / 301	P2
Elevations Building Internal [Stage 2]	Studio Hiller	29 October 2024	837 / 302	P2
Sections Building Outdoor [Stage 2]	Studio Hiller	29 October 2024	837 / 303	P1

6. CURRENCY PERIOD FOR THE APPROVAL

Refer to Condition 11.2 and 11.3.

7. STATEMENT OF REASONS

Description of the development
Material Change of Use for Indoor Sport and Recreation
Reasons for Decision
<p>a) Assessment of the development against the relevant zone purpose, planning scheme codes and planning scheme policies demonstrates that the proposed development will not cause significant adverse impacts on the surrounding natural environment, built environment and infrastructure, community facilities, or local character and amenity; and</p> <p>b) On balance, the application should be approved because the circumstances favour Council exercising its discretion to approve the application even though the development does not comply with an aspect of the assessment benchmarks.</p>
Assessment Benchmarks
<p>The development was assessed against the following assessment benchmarks:</p> <ul style="list-style-type: none"> • Activity Centres Code; • City Centre Code;

- Parking and Access Code;
- Sports and Recreation Code;
- Crime Prevention Through Environmental Design Code; and
- Landscaping Code.

Compliance with assessment benchmarks

The development was assessed against all of the assessment benchmarks listed above and complies with all of these with the exceptions listed below.

Assessment Benchmark	Reasons for the approval despite non-compliance with benchmark
<p>City Centre Code – P9</p> <p>Landscaping Code</p>	<p>The site is already developed and originally contained no landscaping. Stage One of the application did not propose any landscaping on-site. As part of the original application the car parks were moved from the site frontage (on-site) to Bolsover Street (on-street car parking), and therefore it was deemed there is ample space to provide landscaping to improve the streetscape and amenity. Conditions were imposed for Stage One. Stage Two provides small landscaping planter boxes within the outdoor dining area. Conditions relating to both stages are imposed on the development permit to provide reasonable and practical landscaping accounting for the existing and proposed development of the site. Whilst not fully compliant with the Landscaping Code, there is limited space on-site to provide landscaping and that which is proposed still improves the streetscape amenity of the city centre without compromising safety or casual surveillance. It is therefore considered consistent with the intent of the relevant codes and benchmarks.</p>
<p>Parking and Access Code – P6</p>	<p>The additional 180 square metres of mezzanine floor area would require provision of twelve (12) car spaces as per the planning scheme requirements (1 space per 15m² of Total Use Area). However, this is unachievable due to the site cover of the existing building. Three (3) angle parks have been previously provided on site at the rear of the lot with laneway access which are shown on the new proposal plans.</p> <p>As part of the original approval, the developer was required to provide angle car parks along Bolsover Street and reinstate the kerb and channel. A row of eight on-street car parks adjoin the site with additional on-street parking also available within Bolsover Street.</p> <p>The performance criteria requires that an adequate number of carparking spaces are provided on the site to service the use having regard to the existing use of the site and buildings on the site proposed to be re-used.</p> <p>While the development does include an additional 180m² of gross floor area, a large portion of the building's existing internal areas will be occupied by the proposed climbing walls, effectively reducing the usable space within the building. It is envisaged that the proposed mezzanine area will not increase the demand for vehicle parking spaces. It is also anticipated that the busiest periods for the use will be outside of standard trading hours for most of the surrounding businesses. Subsequently, many off-site parking spaces along Bolsover Street will be available for use during the peak times for the Indoor Sport and Recreation use. It is therefore proposed that the existing parking arrangements, as approved under D/33-2014 be maintained and formalised for the development.</p>

Relevant Matters

The proposed development was not assessed against any relevant matters outside of the matters prescribed by regulation.

Matters prescribed by regulation

- The Rockhampton City Plan 2005; and
- Central Queensland Regional Plan 2013;
- The common material, being the material submitted with the application.

8. RIGHTS OF APPEAL

The rights of an applicant to appeal to a tribunal or the Planning and Environment Court against a decision about a development application are set out in chapter 6, part 1 of the *Planning Act 2016*. For particular applications, there may also be a right to make an application for a declaration by a tribunal (see chapter 6, part 2 of the *Planning Act 2016*).

Appeal by an applicant

An applicant for a development application may appeal to the Planning and Environment Court against the following:

- the refusal of all or part of the development application
- a provision of the development approval
- the decision to give a preliminary approval when a development permit was applied for
- a deemed refusal of the development application.

An applicant may also have a right to appeal to the Development tribunal. For more information, see schedule 1 of the *Planning Act 2016*.

The timeframes for starting an appeal in the Planning and Environment Court are set out in section 229 of the *Planning Act 2016*.

Attachment 2 is an extract from the *Planning Act 2016* that sets down the applicant's appeal rights and the appeal rights of a submitter.

9. WHEN THE DEVELOPMENT APPROVAL TAKES EFFECT

This development approval takes effect:

- From the time the decision notice is given – if there is no submitter and the applicant does not appeal the decision to the court.

Or

- When the submitter's appeal period ends – if there is a submitter and the applicant does not appeal the decision to the court.

Or

- Subject to the decision of the court, when the appeal is finally decided – if an appeal is made to the court.

10. ORIGINAL DECISION ASSESSMENT MANAGER

Name: **Tarnya Fitzgibbon**
COORDINATOR DEVELOPMENT ASSESSMENT

Date: 20 March 2014

11. ASSESSMENT MANAGER

Name: **Amanda O'Mara**
COORDINATOR
DEVELOPMENT ASSESSMENT

Signature:



Date: 19 December 2024

Attachment 1 – Conditions of the approval

Part 1 – Conditions imposed by the assessment manager [Note: where a condition is imposed about infrastructure under Chapter 4 of the *Planning Act 2016*, the relevant provision of the Act under which this condition was imposed must be specified.]

Attachment 2—Extract on appeal rights

1.0 ADMINISTRATION

- 1.1 The owner, the owner’s successors in title, and any occupier of the premises is responsible for ensuring compliance with the conditions of this development approval.
- 1.2 Where these Conditions refer to “Council” in relation to requiring Council to approve or to be satisfied as to any matter, or conferring on the Council a function, power or discretion, that role of the Council may be fulfilled in whole or in part by a delegate appointed for that purpose by the Council.
- 1.3 All conditions of this approval must be undertaken and completed to the satisfaction of Council, at no cost to Council.
- 1.4 All conditions, works, or requirements of this approval must be undertaken and completed prior to the commencement of the use, unless otherwise stated.
- 1.5 Where applicable, infrastructure requirements of this approval must be contributed to the relevant authorities, at no cost to Council prior, to the commencement of the use, unless otherwise stated.
- 1.6 The following further Development Permits must be obtained prior to the commencement of any works associated with its purposes:
 - 1.6.1 Operational Works:
 - (i) Road Works;
 - 1.6.2 Building Works; and
 - 1.6.3 Plumbing and Drainage Works.
- 1.7 Unless otherwise stated, all works must be designed, constructed and maintained in accordance with the relevant Council policies, guidelines and standards.
- 1.8 All engineering drawings/specifications, design and construction works must comply with the requirements of the relevant Australian Standards and must be approved, supervised and certified by a Registered Professional Engineer of Queensland.

2.0 APPROVED PLANS AND DOCUMENTS

- 2.1 The approved development must be completed and maintained generally in accordance with the approved plans and documents, except where amended by the conditions of this permit:

<u>Plan / Document Name</u>	<u>Prepared by</u>	<u>Date</u>	<u>Plan / Document Reference</u>	<u>Version / Issue</u>
Existing Plan [Stage 1]	Design and Architecture	24 January 2014	FL-014 SK-01	Rev 2
Proposed Plan [Stage 1]	Design and Architecture	26 February 2014	FL-014 SK-02	Rev 3
Overall Plan Proposed – Site [Stage 2]	Studio Hiller	29 October 2024	837 / 101	P2
Overall Plan Proposed – Ground	Studio Hiller	29 October 2024	837 / 102	P2

[Stage 2]				
Overall Plan Proposed – Mezzanine [Stage 2]	Studio Hiller	29 October 2024	837 / 103	P2
Elevations Building External [Stage 2]	Studio Hiller	29 October 2024	837 / 301	P2
Elevations Building Internal [Stage 2]	Studio Hiller	29 October 2024	837 / 302	P2
Sections Building Outdoor [Stage 2]	Studio Hiller	29 October 2024	837 / 303	P1

- 2.2 Where there is any conflict between the conditions of this approval and the details shown on the approved plans and documents, the conditions of approval must prevail.
- 2.3 Where conditions require the above plans or documents to be amended, the revised document(s) must be submitted for approval by Council prior to the submission of a Development Application for Operational Works.
- 3.0 ROAD WORKS
- 3.1 A Development Permit for Operational Works (road works) must be obtained prior to the commencement of any road works on the site.
- 3.2 All works must be designed and constructed in accordance with the approved plans (refer to condition 2.1), *Capricorn Municipal Development Guidelines*, relevant Australian Standards and the provisions of a Development Permit for Operational Works (road works).
- 3.3 The redundant vehicular crossings along the Bolsover Street frontage of the site must be removed and replaced with Council's standard kerb. Any changes to the footpath levels to accommodate the altered kerb profile will be the Developer's responsibility.
- 3.4 As a temporary alternative to condition 3.3, an interim measure of providing concrete wheel stops to isolate the on-street parking area from the pedestrian pathway for the safety of pedestrians is acceptable. Council's standard kerb must be installed by 30th June 2018 regardless (requiring operational works as per condition 3.1).
- 3.5 Traffic signs and pavement markings must be provided in accordance with the *Manual of Uniform Traffic Control Devices – Queensland*. Where necessary, existing traffic signs and pavement markings must be modified in accordance with the *Manual of Uniform Traffic Control Devices – Queensland*.
- 4.0 ACCESS AND PARKING WORKS
- 4.1 All works must be designed and constructed in accordance with the approved plans (refer to condition 2.1), *Capricorn Municipal Development Guidelines*, and *Australian Standard AS2890 "Parking Facilities"*.
- 4.2 All car parking areas must be paved or sealed to Council's satisfaction.
- 4.3 A minimum of three (3) parking spaces must be provided on-site as shown in the approved plans (refer to condition 2.1).
- 4.4 Parking spaces must be line-marked in accordance with the approved Site Plan (refer to condition 2.1) and in accordance with the *Australian Standard AS2890 "Parking facilities"*.
- 4.5 The car parking spaces at the rear of the development site, along Bolsover Lane frontage, must be arranged such that vehicles reverse into these spaces in order to accommodate a forward movement when leaving the site. Appropriate signage detailing this requirement

must be erected prior to the commencement of the use.

5.0 PLUMBING AND DRAINAGE WORKS

- 5.1 The development must be connected to reticulated sewer and water infrastructure.
- 5.2 The existing sewerage and water connection point(s) must be retained, and upgraded if necessary, to service the development.
- 5.3 Alteration or relocation of internal plumbing and sanitary drainage works associated with the existing building(s) must be in accordance with regulated work under the *Plumbing and Drainage Act* and Council's Plumbing and Drainage Policies.
- 5.4 Sewerage trade waste permits must be obtained for the discharge of any non-domestic waste into Council's sewerage reticulation. Arrestor traps must be provided where commercial or non-domestic waste water is proposed to be discharged into the system.
- 5.5 All internal plumbing and drainage works must be designed and constructed in accordance with the approved plans (refer to condition 2.1), *Capricorn Municipal Development Guidelines*, *Water Supply (Safety and Reliability) Act 2008*, *Plumbing and Drainage Act 2018*, Council's Plumbing and Drainage Policies and the provisions of a Development Permit for Plumbing and Drainage Works.

6.0 BUILDING WORKS

- 6.1 Any lighting devices associated with the development, such as sensory lighting, must be positioned on the site and shielded so as not to cause glare or other nuisance to nearby residents and motorists. Night lighting must be designed, constructed and operated in accordance with Australian Standard AS4282 "Control of the obtrusive effects of outdoor lighting".
- 6.2 Deleted.
- 6.3 All waste storage areas must be:
 - 6.3.1 aesthetically screened from any frontage or adjoining property or surrounded by a minimum 1.8 metre high fence that obstructs from view the contents of the bin compound by any member of the public from any public place;
 - 6.3.2 of a minimum size to accommodate commercial sized bins to service by a commercial contractor plus clearances around the bins for manoeuvring and cleaning;
 - 6.3.3 provided with a suitable hosecock (with backflow prevention) and hoses must be provided at the refuse container area, and washdown must be drained to the sewer and fitted with an approved stormwater diversion valve arrangement in accordance with the Sewerage Trade Waste provisions under the *Water Supply (Safety and Reliability) Act* and the *Plumbing and Drainage Act*; and be
 - 6.3.4 in accordance with the *Environmental Protection (Waste Management) Regulations*.
- As an alternative to a wash-down facility, a fully contained commercial bin cleaning service is acceptable provided no wastewater is discharged from the site to sewer.
- 6.4 A Development Permit for Building Works assessable under the Building Assessment Provisions must be obtained prior to the commencement of any building works on the site.
- 6.5 All proposed structures (Awnings and Roof Drainage System) must be completely located within the development site.

Note: No private structures will be approved in / on the road reserve.

7.0 LANDSCAPING WORKS

- 7.1 For Stage One, the existing car parks within the property on the Bolsover Street frontage must not be used for car parking. Landscaping must be established in this area along the frontage of the property and must consist of at least a minimum of three (3) planter boxes, with a minimum length of two (2) metres for each planter box.
- 7.2 Landscaping, or any part thereof, upon reaching full maturity, must not:
 - (i) obstruct sight visibility zones as defined in the *Austrroads 'Guide to Traffic Engineering Practice'* series of publications;

- (ii) adversely affect any road lighting or public space lighting; or
 - (iii) adversely affect any Council infrastructure, or public utility plant.
- 7.3 The landscaped areas must be subject to an ongoing maintenance and replanting programme (if necessary).
- 7.4 For Stage Two, landscaping must be constructed and/or established prior to the commencement of the use in all areas shown on the approved plan titled "Overall Plan Proposed – Ground", reference number 837 / 102 (refer to condition 2.1).
- 8.0 ASSET MANAGEMENT
- 8.1 Any alteration necessary to electricity, telephone, water mains, sewerage mains, and/or public utility installations resulting from the development or in connection with the development, must be at full cost to the Developer.
- 8.2 Any damage to existing kerb and channel, pathway or roadway (including removal of concrete slurry from public land, pathway, roads, kerb and channel and stormwater gullies and drainage lines) which may occur during any works carried out in association with the approved development must be repaired. This must include the reinstatement of the existing traffic signs and pavement markings which may have been removed.
- 9.0 ENVIRONMENTAL
- 9.1 An Erosion Control and Stormwater Control Management Plan must be implemented and maintained on-site for the duration of the works, and until all exposed soil areas are permanently stabilised (for example, turfed, hydromulched, concreted, landscaped). The prepared Erosion Control and Stormwater Control Management Plan must be available on-site for inspection by Council Officers during those works.
- 10.0 OPERATING PROCEDURES
- 10.1 All construction materials, waste skips, machinery and contractors' vehicles must be located and stored or parked within the site. No storage of materials, parking of construction machinery or contractors' vehicles will be permitted in Bolsover Street or Bolsover Lane.
- 10.2 Deleted.
- 10.3 Compliance with the Environmental Protection (Waste Management) Regulation for storage and collection of solid wastes. All waste storage area must:
- 10.3.1 be kept in a clean, tidy condition; and.
 - 10.3.2 ensure no waste material (for example pallets, cardboard) is stored external to the waste storage enclosures.
- 10.4 Noise emitted from the activity must not cause an environmental nuisance.
- 10.5 When requested by Council, noise monitoring must be undertaken and recorded within three (3) months, to investigate any genuine complaint of nuisance caused by noise. The monitoring data, an analysis of the data and a report, including noise mitigation measures, must be provided to Council within fourteen (14) days of the completion of the investigation. Council may require any noise mitigation measures identified in the assessment to be implemented within appropriate timeframes. Noise measurements must be compared with the acoustic quality objectives specified in the most recent edition of the *Environmental Protection (Noise) Policy*.
- 11.0 STAGED DEVELOPMENT
- 11.1 This development approval is for a development to be undertaken in two (2) discrete stages as identified in the approved plans (refer to condition 2.1):
- 11.1.1 Stage One must be undertaken in accordance with plan numbers: FL-014 SK-01, FL-014 SK-02 and SK-01; and
 - 11.1.2 Stage Two must be undertaken in accordance with plan numbers: 837 / 101, 837 / 102, 837 / 103, 837 / 301, 837 / 302 and 837 / 303.
- Stage One must be completed prior to Stage Two.
- 11.2 The currency period for Stage One is in accordance with the standard relevant periods stated in section 341 of *Sustainable Planning Act 2009*.

Note: Stage One has previously been commenced at the time this condition was adopted.

- 11.3 The currency period for Stage Two is six (6) years from the date this condition was adopted.
- 11.4 Unless otherwise expressly stated, the conditions must be read as being applicable to all stages.

ADVISORY NOTES

NOTE 1. Asbestos Removal

Any demolition and/or removal works involving asbestos materials must be undertaken in accordance with the requirements of the *Workplace Health and Safety* legislation and *Public Health Act 2005*.

NOTE 2. General Environmental Duty

General environmental duty under the *Environmental Protection Act* prohibits unlawful environmental nuisance caused by noise, aerosols, particles dust, ash, fumes, light, odour or smoke beyond the boundaries of the property during all stages of the development including earthworks, construction and operation.

NOTE 3. General Safety Of Public During Construction

The *Workplace Health and Safety Act* and *Manual of Uniform Traffic Control Devices* must be complied with in carrying out any construction works, and to ensure safe traffic control and safe public access in respect of works being constructed on a road.

NOTE 4. Adopted Infrastructure Charges Notice

This application is subject to infrastructure contributions in accordance with Council policies. The contributions are presented on an Adopted Infrastructure Charges Notice.

NOTE 5. Works in Road Reserve Permit

It is advised that a Works in Road Reserve Permit (Compliant with the Standard Capricorn Municipal Development Guideline) may be accepted in place of the application for a Development Permit for Operational Works (road works) for the installation of the wheel stops and road signs.

NOTE 6. Aboriginal Cultural Heritage

It is advised that under section 23 of the *Aboriginal Cultural Heritage Act 2003*, a person who carries out an activity must take all reasonable and practicable measures to ensure the activity does not harm Aboriginal cultural heritage (the "cultural heritage duty of care"). Maximum penalties for breaching the duty of care are listed in the Aboriginal cultural heritage legislation. The information on Aboriginal cultural heritage is available on the Department of Seniors, Disability Services and Aboriginal and Torres Strait Islander Partnerships website www.dsdsatsip.qld.gov.au

NOTE 7. Licensable Activities

Should an activity licensable by Rockhampton Regional Council be proposed for the development site, Council's Environment and Public Health Unit must be consulted to determine whether any approvals are required. Such activities may include food preparation, storage of dangerous goods or environmentally relevant activities. Approval for such activities is required before 'fit out' and operation.

NOTE 8. Rating Category

Please note, a Material Change of Use approval may result in an adjustment to a property's rating category. Please contact Council's Rates Department should you require further information.

The following is an extract from the *Planning Act 2016* (Chapter 6)

Appeal rights

229 Appeals to tribunal or P&E Court

- (1) Schedule 1 states—
 - (a) matters that may be appealed to—
 - (i) either a tribunal or the P&E Court; or
 - (ii) only a tribunal; or
 - (iii) only the P&E Court; and
 - (b) the person—
 - (i) who may appeal a matter (the **appellant**); and
 - (ii) who is a respondent in an appeal of the matter; and
 - (iii) who is a co-respondent in an appeal of the matter; and
 - (iv) who may elect to be a co-respondent in an appeal of the matter.
- (2) An appellant may start an appeal within the appeal period.
- (3) The **appeal period** is—
 - (a) for an appeal by a building advisory agency—10 business days after a decision notice for the decision is given to the agency or
 - (b) for an appeal against a deemed refusal—at any time after the deemed refusal happens; or
 - (c) for an appeal against a decision of the Minister, under chapter 7, part 4, to register premises or to renew the registration of premises—20 business days after a notice is published under section 269(3)(a) or (4); or
 - (d) for an appeal against an infrastructure charges notice—20 business days after the infrastructure charges notice is given to the person; or
 - (e) for an appeal about a deemed approval of a development application for which a decision notice has not been given—30 business days after the applicant gives the deemed approval notice to the assessment manager; or
 - (f) for any other appeal—20 business days after a notice of the decision for the matter, including an enforcement notice, is given to the person.

Note—

See the P&E Court Act for the court's power to extend the appeal period.

- (4) Each respondent and co-respondent for an appeal may be heard in the appeal.
- (5) If an appeal is only about a referral agency's response, the assessment manager may apply to the tribunal or P&E Court to withdraw from the appeal.
- (6) To remove any doubt, it is declared that an appeal against an infrastructure charges notice must not be about—
 - (a) the adopted charge itself; or
 - (b) for a decision about an offset or refund—
 - (i) the establishment cost of trunk infrastructure identified in a LGIP; or
 - (ii) the cost of infrastructure decided using the method included in the local government's charges resolution.

230 Notice of appeal

- (1) An appellant starts an appeal by lodging, with the registrar of the tribunal or P&E Court, a notice of appeal that—
 - (a) is in the approved form; and
 - (b) succinctly states the grounds of the appeal.
- (2) The notice of appeal must be accompanied by the required fee.
- (3) The appellant or, for an appeal to a tribunal, the registrar must, within the service period, give a copy of the notice of appeal to—
 - (a) the respondent for the appeal; and
 - (b) each co-respondent for the appeal; and

- (c) for an appeal about a development application under schedule 1, table 1, item 1—each principal submitter for the development application; and
 - (d) for an appeal about a change application under schedule 1, table 1, item 2—each principal submitter for the change application; and
 - (e) each person who may elect to become a co-respondent for the appeal, other than an eligible submitter who is not a principal submitter in an appeal under paragraph (c) or (d); and
 - (f) for an appeal to the P&E Court—the chief executive; and
 - (g) for an appeal to a tribunal under another Act—any other person who the registrar considers appropriate.
- (4) The **service period** is—
 - (a) if a submitter or advice agency started the appeal in the P&E Court—2 business days after the appeal is started; or
 - (b) otherwise—10 business days after the appeal is started.
 - (5) A notice of appeal given to a person who may elect to be a co-respondent must state the effect of subsection
 - (6) A person elects to be a co-respondent by filing a notice of election, in the approved form, within 10 business days after the notice of appeal is given to the person.

231 Other appeals

- (1) Subject to this chapter, schedule 1 and the P&E Court Act, unless the Supreme Court decides a decision or other matter under this Act is affected by jurisdictional error, the decision or matter is non-appealable.
- (2) The Judicial Review Act 1991, part 5 applies to the decision or matter to the extent it is affected by jurisdictional error.
- (3) A person who, but for subsection (1) could have made an application under the Judicial Review Act 1991 in relation to the decision or matter, may apply under part 4 of that Act for a statement of reasons in relation to the decision or matter.
- (4) In this section— **decision** includes—
 - (a) conduct engaged in for the purpose of making a decision; and
 - (b) other conduct that relates to the making of a decision; and
 - (c) the making of a decision or the failure to make a decision; and
 - (d) a purported decision; and
 - (e) a deemed refusal.

non-appealable, for a decision or matter, means the decision or matter—

- (a) is final and conclusive; and
- (b) may not be challenged, appealed against, reviewed, quashed, set aside or called into question in any other way under the Judicial Review Act 1991 or otherwise, whether by the Supreme Court, another court, a tribunal or another entity; and
- (c) is not subject to any declaratory, injunctive or other order of the Supreme Court, another court, a tribunal or another entity on any ground.

232 Rules of the P&E Court

- (1) A person who is appealing to the P&E Court must comply with the rules of the court that apply to the appeal.
- (2) However, the P&E Court may hear and decide an appeal even if the person has not complied with rules of the P&E Court.

Schedule 1

Appeals section 229

1 Appeal rights and parties to appeals

- (1) Table 1 states the matters that may be appealed to—(a) the P&E court; or (b) a tribunal.
- (2) However, table 1 applies to a tribunal only if the matter involves—
 - (a) the refusal, or deemed refusal of a development application, for—
 - (i) a material change of use for a classified building; or
 - (ii) operational work associated with building work, a retaining wall, or a tennis court; or
 - (b) a provision of a development approval for—
 - (i) a material change of use for a classified building; or
 - (ii) operational work associated with building work, a retaining wall, or a tennis court; or
 - (c) if a development permit was applied for—the decision to give a preliminary approval for—
 - (i) a material change of use for a classified building; or
 - (ii) operational work associated with building work, a retaining wall, or a tennis court; or
 - (d) a development condition if—
 - (i) the development approval is only for a material change of use that involves the use of a building classified under the Building Code as a class 2 building; and
 - (ii) the building is, or is proposed to be, not more than 3 storeys; and
 - (iii) the proposed development is for not more than 60 sole-occupancy units; or
 - (e) a decision for, or a deemed refusal of, an extension application for a development approval that is only for a material change of use of a classified building; or
 - (f) a decision for, or a deemed refusal of, a change application for a development approval that is only for a material change of use of a classified building; or
 - (g) a matter under this Act, to the extent the matter relates to—
 - (i) the Building Act, other than a matter under that Act that may or must be decided by the Queensland Building and Construction Commission; or
 - (ii) the Plumbing and Drainage Act, part 4 or 5; or
 - (h) a decision to give an enforcement notice in relation to a matter under paragraphs (a) to (g); or
 - (i) a decision to give an infrastructure charges notice; or
 - (j) the refusal, or deemed refusal, of a conversion application; or
 - (k) a matter that, under another Act, may be appealed to the tribunal; or
 - (l) a matter prescribed by regulation.
- (3) Also, table 1 does not apply to a tribunal if the matter involves—
 - (a) for a matter in subsection (2)(a) to (d)—
 - (i) a development approval for which the development application required impact assessment; and
 - (ii) a development approval in relation to which the assessment manager received a properly made submission for the development application; or
 - (b) a provision of a development approval about the identification or inclusion, under a variation approval, of a matter for the development.
- (4) Table 2 states the matters that may be appealed only to the P&E Court.
- (5) Table 3 states the matters that may be appealed only to the tribunal.
- (6) In each table—
 - (a) column 1 states the appellant in the appeal; and
 - (b) column 2 states the respondent in the appeal; and
 - (c) column 3 states the co-respondent (if any) in the appeal; and
 - (d) column 4 states the co-respondents by election (if any) in the appeal.
- (7) If the chief executive receives a notice of appeal under section 230(3)(f), the chief executive may elect to be a co-respondent in the appeal.

Table 1
Appeals to the P&E Court and, for certain matters, to a tribunal

1. Development applications An appeal may be made against— (a) the refusal of all or part of the development application; or (b) the deemed refusal of the development application; or (c) a provision of the development approval; or (d) if a development permit was applied for—the decision to give a preliminary approval.			
Column 1 Appellant	Column 2 Respondent	Column 3 Co-respondent (if any)	Column 4 Co-respondent by election (if any)
The applicant	The assessment manager	If the appeal is about a concurrence agency's referral response—the	1 A concurrence agency that is not a co-respondent 2 If a chosen Assessment manager is the respondent—

Table 1			
Appeals to the P&E Court and, for certain matters, to a tribunal			
		concurrency agency	the prescribed assessment manager 3 Any eligible advice agency for the application 4 Any eligible submitter for the application
<p>2. Change applications</p> <p>An appeal may be made against—</p> <p>(a) a responsible entity's decision for a change application, other than a decision made by the P&E court; or</p> <p>(b) a deemed refusal of a change application.</p>			
Column 1 Appellant	Column 2 Respondent	Column 3 Co-respondent (if any)	Column 4 Co-respondent by election (if any)
1 The applicant 2 If the responsible entity is the assessment manager—an affected entity that gave a pre-request notice or response notice	The responsible entity	If an affected entity starts the appeal—the applicant	1 A concurrency agency for the development application 2 If a chosen assessment manager is the respondent—the prescribed assessment manager 3 A private certifier for the development application 4 Any eligible advice agency for the change application 5 Any eligible submitter for the change application
<p>3. Extension applications</p> <p>An appeal may be made against—</p> <p>(a) the assessment manager's decision about an extension application; or</p> <p>(b) a deemed refusal of an extension application.</p>			
Column 1 Appellant	Column 2 Respondent	Column 3 Co-respondent (if any)	Column 4 Co-respondent by election (if any)
1 1 The applicant 2 For a matter other than a deemed refusal of an extension application – a concurrency agency, other than the chief executive, for the application	The assessment manager	If a concurrency agency starts the appeal – the applicant	If a chosen assessment manager is the respondent – the prescribed assessment manager
<p>4. Infrastructure charges notices</p> <p>An appeal may be made against an infrastructure charges notice on 1 or more of the following grounds</p> <p>a) The notice involved an error relating to –</p> <p>(i) The application of the relevant adopted charge; or</p> <p>Examples of errors in applying an adopted charge –</p> <ul style="list-style-type: none"> • The incorrect application of gross floor area for a non-residential development • Applying an incorrect 'use category', under a regulation, to the development <p>(i) The working out of extra demands, for section 120; or</p> <p>(ii) An offset or refund; or</p> <p>b) The was no decision about an offset or refund; or</p> <p>c) If the infrastructure charges notice states a refund will be given – the timing for giving the refund; or</p> <p>d) The amount of the charge is so unreasonable that no reasonable relevant local government could have imposed the amount.</p>			
Column 1 Appellant	Column 2 Respondent	Column 3 Co-respondent	Column 4 Co-respondent by election

Table 1			
Appeals to the P&E Court and, for certain matters, to a tribunal			
		(if any)	(if any)
The person given the Infrastructure charges notice	The local government that gave the infrastructure charges notice	-	-
<p>5. Conversion applications An appeal may be made against— (a) the refusal of a conversion application; or (b) a deemed refusal of a conversion application.</p>			
Column 1 Appellant	Column 2 Respondent	Column 3 Co-respondent (if any)	Column 4 Co-respondent by election (if any)
The applicant	The local government to which the conversion application was made	-	-
<p>6. Enforcement notices An appeal may be made against the decision to give an enforcement notice.</p>			
Column 1 Appellant	Column 2 Respondent	Column 3 Co-respondent (if any)	Column 4 Co-respondent by election (if any)
The person given the enforcement notice	The enforcement authority	-	If the enforcement authority is not the local government for the premises in relation to which the offence is alleged to have happened—the local government

Table 2			
Appeals to the P&E Court only			
<p>1. Appeals from tribunal An appeal may be made against a decision of a tribunal, other than a decision under section 252, on the ground of— (a) an error or mistake in law on the part of the tribunal; or (b) jurisdictional error.</p>			
Column 1 Appellant	Column 2 Respondent	Column 3 Co-respondent (if any)	Column 4 Co-respondent by election (if any)
A party to the proceedings for the decision	The other party to the proceedings for the decision	-	-
<p>2. Eligible submitter appeals An appeal may be made against the decision to give a development approval, or an approval for a change application, to the extent that the decision relates to— (a) any part of the development application for the development approval that required impact assessment; or (b) a variation request.</p>			
Column 1 Appellant	Column 2 Respondent	Column 3 Co-respondent (if any)	Column 4 Co-respondent by election (if any)
1 For a development application—an eligible submitter for the development application 2 For a change application—an eligible submitter for	1 For a development application—the assessment manager 2 For a change application—the responsible entity	1 The applicant 2 If the appeal is about a concurrence agency's referral response—the concurrence agency	Another eligible submitter for the application

Table 2 Appeals to the P&E Court only			
the change application			
<p>3. Eligible submitter and eligible advice agency appeals An appeal may be made against a provision of a development approval, or failure to include a provision in the development approval, to the extent the matter relates to— (a) any part of the development application or the change application, for the development approval, that required impact assessment; or (b) a variation request.</p>			
Column 1 Appellant	Column 2 Respondent	Column 3 Co-respondent (if any)	Column 4 Co-respondent by election (if any)
1 For a development application—an eligible submitter for the development application 2 For a change application—an eligible submitter for the change application 3 An eligible advice agency for the development application or change application	1 For a development application—the assessment manager 2 For a change application—the responsible entity	1 The applicant 2 If the appeal is about a concurrence agency's referral response—the concurrence agency	Another eligible submitter for the application
<p>4. Compensation claims An appeal may be made against— (a) a decision under section 32 about a compensation claim; or (b) a decision under section 265 about a claim for compensation; or (c) a deemed refusal of a claim under paragraph (a) or (b).</p>			
Column 1 Appellant	Column 2 Respondent	Column 3 Co-respondent (if any)	Column 4 Co-respondent by election (if any)
A person dissatisfied with the decision	The local government to which the claim was made	-	-
<p>5. Registered premises An appeal may be made against a decision of the Minister under chapter 7, part 4.</p>			
Column 1 Appellant	Column 2 Respondent	Column 3 Co-respondent (if any)	Column 4 Co-respondent by election (if any)
1 A person given a decision notice about the decision 2 If the decision is to register premises or renew the registration of premises—an owner or occupier of premises in the affected area for the registered premises who is dissatisfied with the decision	The Minister	-	If an owner or occupier starts the appeal – the owner of the registered premises

Table 2 Appeals to the P&E Court only			
<p>6. Local laws An appeal may be made against a decision of a local government, or conditions applied, under a local law about—</p> <p>(a) the use of premises, other than a use that is the natural and ordinary consequence of prohibited development; or</p> <p>(b) the erection of a building or other structure.</p>			
Column 1 Appellant	Column 2 Respondent	Column 3 Co-respondent (if any)	Column 4 Co-respondent by election (if any)
A person who— (a) applied for the decision; and (b) is dissatisfied with the decision or conditions.	The local government	-	-

Table 3 Appeals to the tribunal only			
<p>1. Building advisory agency appeals An appeal may be made against giving a development approval for building work to the extent the building work required code assessment against the building assessment provisions.</p>			
Column 1 Appellant	Column 2 Respondent	Column 3 Co-respondent (if any)	Column 4 Co-respondent by election (if any)
A building advisory agency for the development application related to the approval	The assessment manager	The applicant	<p>1 A concurrence agency for the development application related to the approval</p> <p>2 A private certifier for the development application related to the approval</p>
<p>3. Certain decisions under the Building Act and the Plumbing and Drainage Act An appeal may be made against a decision under—</p> <p>(a) the Building Act, other than a decision made by the Queensland Building and Construction Commission; or</p> <p>(b) the Plumbing and Drainage Act, part 4 or 5.</p>			
Column 1 Appellant	Column 2 Respondent	Column 3 Co-respondent (if any)	Column 4 Co-respondent by election (if any)
A person who received, or was entitled to receive, notice of the decision	The person who made the decision	-	-
<p>4. Local government failure to decide application under the Building Act An appeal may be made against a local government's failure to decide an application under the Building Act within the period required under that Act.</p>			
Column 1 Appellant	Column 2 Respondent	Column 3 Co-respondent (if any)	Column 4 Co-respondent by election (if any)
A person who was entitled to receive, notice of the decision	The local government to which the application was made	-	-